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*Proposed Counsel for the Official Committee
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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

FRESH ACQUISITIONS, LLC, <i>et al.</i> , ¹	§	Case No. 21-30721 (SGJ)
	§	Chapter 11
Debtors.	§	(Jointly Administered)

**MOTION FOR ORDER DIRECTING ARIZONA BANK & TRUST TO PRODUCE
DOCUMENTS AND APPEAR FOR EXAMINATION PURSUANT TO BANKRUPTCY
RULE 2004**

The Official Committee of Unsecured Creditors (the “Committee”), by its undersigned proposed counsel, files this motion for an order directing Arizona Bank & Trust

¹ The Debtors in these Chapter 11 cases (“Debtors”) and the last four digits of each Debtor’s Taxpayer Identification Number are as follows: Alamo Fresh Payroll, LLC (1590); Fresh Acquisitions, LLC (2795); Alamo Ovation, LLC (9002); Buffets LLC (2294); Hometown Buffet, Inc. (3002); Tahoe Joe’s Inc. (7129); OCB Restaurant Company, LLC (7607); OCB Purchasing, Co. (7610); Ryan’s Restaurant Group, LLC (7895); Fire Mountain Restaurants, LLC (8003); Food Management Partners, Inc. (7374); FMP SA Management Group, LLC (3031); FMP-Fresh Payroll, LLC (8962); FMP-Ovation Payroll, LLC (1728); and Alamo Buffets Payroll, LLC (0998). The Debtors’ principal offices are located at: 2338 N. Loop 1604 W., Suite 350, San Antonio TX, 78248, United States.

(“ABT”) to produce documents identified in **Exhibit A** to this motion and to appear for examination pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (the “Motion”). A proposed form of order is attached as **Exhibit B**.

JURISDICTION AND VENUE

1. On April 20, 2021 (the “Petition Date”), each of the Debtors filed Voluntary Petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. On April 30, 2021, the United States Trustee for the Northern District of Texas appointed the Committee pursuant to Section 1102 of the Bankruptcy Code.

3. The Court has jurisdiction of the motion under 28 U.S.C. § 1334, and the motion constitutes a core proceeding under 28 U.S.C. § 157(b).

4. Venue is proper in this Court under 28 U.S.C. §§ 1408 and 1409.

5. The statutory predicates for the relief requested in this motion are section 105 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 2004.

RELIEF REQUESTED

6. ABT claims to be owed approximately \$13,466,151 by virtue of secured loans made to debtor Fresh Acquisitions, LLC and non-debtor Alamo Dynamic, LLC in 2015. Debtor FMP SA Management Group, LLC was added as a co-borrower in 2017. Eighteen of the Debtors’ 21 bank accounts are held at ABT as described in the Debtors’ cash management motion [Docket No. 8].

7. In order to investigate the financial history of the Debtors and fulfill its duty to review the validity of the ABT debt and its claimed security, the Committee seeks an order requiring ABT (a) to produce the documents set forth in Exhibit A to Committee counsel no later than 5:00 p.m. Pacific Time, June 25, 2021, and (b) to be examined on a date and time as mutually agreed by the parties.

ARGUMENTS AND AUTHORITIES

8. Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure, upon motion of any party in interest, the Court may order the examination of any person or entity, relating to any matter which may affect the administration of the debtor's estate and in a chapter 11 case, to any matter relevant to the case. Fed.R.Bankr.P. 2004(b).

9. In this case, the Committee must be able to review the ABT loan documents in order to determine the extent and validity of ABT's secured claim. In addition, the Committee must be able to review the Debtors' bank records held by ABT in order to determine the appropriateness of the Debtors' financial transactions prior to the Petition Date.

CERTIFICATION OF CONFERENCE

Per Local Bankruptcy Rule 2004-1, the undersigned counsel has conferred with ABT's counsel Scott Cohen and the parties are working to resolve any objection to the Motion.

CONCLUSION

Based on the foregoing, the Committee requests the Court to enter the proposed order attached as Exhibit B.

Dated: June 14, 2021.

Respectfully submitted,

/s/ Carolyn J. Johnsen
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CERTIFICATE OF SERVICE

I hereby certify that Notice of this document was electronically filed and served to the parties that are registered or otherwise entitled to receive electronic notices in this case pursuant to the Electronic Filing Procedures in this District on June 14, 2021.

/s/ Carolyn J. Johnsen
Carolyn J. Johnsen

4830-0489-3934 v2 [97257-1]